

Court of Appeals, State of Michigan

ORDER

Renard Slomka v Hamtramck Housing Commission

Docket No. 274388

LC No. 02-219550-CK

Brian K. Zahra
Presiding Judge

Michael J. Talbot

Kurtis T. Wilder
Judges

The motion for immediate consideration is GRANTED.

The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's November 3, 2006 order granting defendant's motion to disqualify plaintiff's counsel Harold Dunne is REVERSED. A party seeking disqualification of counsel bears the burden of demonstrating specifically how and as to what issues in the case the likelihood of prejudice will result. *Killingbeck v Killingbeck*, 269 Mich App 132, 148; 711 NW2d 759 (2005). The conclusion that a conflict of interest exists is a question of fact and is reviewed under the clearly erroneous standard. *Id.* In this case, Dunne offered an affidavit in which he denied drafting the contract, discussing the contract with plaintiff, or being present when the contract was approved by the housing commission. Defendant's attempt to contradict Dunne's denials relied solely on speculation and was not based upon fact. As a result, the trial court's finding of a conflict of interest was clearly erroneous.

The motion to allow a supplement to the application is GRANTED.

This case is REMANDED to the trial court for further proceedings consistent with this order. We do not retain jurisdiction. This order shall have immediate effect. MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 15 2007

Date

Sandra Schultz Mengel
Chief Clerk